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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,846	02/06/2002	Bryan G. Hughes	400064.401	3733

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EXAMINER	
NGUYEN, KIM T	

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/072,846	HUGHES, BRYAN G.	
	Examiner	Art Unit	
	Kim Nguyen	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *135-156* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *135-156* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Examiner acknowledges receipt of the RCE filed with the amendment on 6/15/05. According to the amendment, claims 135-156 are pending in the application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 135-156 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (US 2002/0002489) in view of Leason et al (US 6,251,017) and Salmimaa et al (US 6,668,177).

As per claim 135 and 141, Miller discloses a method comprising receiving a number of indications identifying a first type of action (user selects combination of numbers with commercial icons such as vehicles, boat, etc.) (Figs 7A-7C; paragraphs 0072-0073); determining whether the received indications of the first type of action matched a winning combination; and providing an award if there is a matched (abstract, paragraphs 0068, 0074). Miller does not disclose providing commercial icons for selection and

associating the commercial icons with at least two different commercial entities. However, Leason discloses providing commercial icons for the user to select (col. 9, lines 26-32) and Salmimaa discloses associating the commercial icons with different commercial entities (Fig. 1; col. 12, lines 24-27). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include commercial icons of Leason which are associated with different commercial entities as taught by Salmimaa to the game of Miller in order to enhance attraction on commercial advertisement items of different entities on the game of Miller.

As per claim 136, Salmimaa discloses linking the user to a location on a network in response to the selected commercial icon (col. 3, lines 8-11; col. 5, lines 4-6; and col. 6, lines 40-44).

As per claim 137-138, Miller discloses allowing the user to play a second round by selecting different type of actions (paragraph 0083) , and presenting an advertisement (paragraph 0083) provided by a commercial entity.

As per claim 139-140, and 143-146, implementing button associating an icon for selecting the icon, providing promotional offer, changing the appearance of a selected icon to a specific image such as a trademark, etc., presenting the image on a display or an audio track, and accepting all the users' selections before determining winning would have been well known to a person of ordinary skill in the art at the time the invention was made.

As per claim 142, Salmimaa discloses changing an image of the commercial icons when cursor is moved over the icons (col. 5, lines 4-23).

As per claim 147, refer to discussion in claims 135 above. Further, Miller discloses receiving a second type of action (user selects icon "LEXUS" in Fig. 7C) and presenting an advertisement in response to the received indication of the second type of action (last four lines of paragraph 0083).

As per claim 148, Leason discloses presenting icons via a graphical user interface (col. 9, lines 18-21).

As per claim 149-150, Miller discloses presenting an advertisement by linking the user to a website that is associated with the commercial icon (Fig. 7D).

As per claim 151, 153-154, linking the user to a page of the website that is different from the commercial entity, receiving a set of indication before another set of indication of another type of action, and accepting input of selection of all the users before awarding an award would have been both well-known and obvious design choice.

As per claim 152, refer to discussion in claim 140 above.

As per claim 155 and 156, refer to discussion in claims 135, 137, and 139 above.

Response to Arguments

3. Applicant's arguments filed 6/15/05 have been fully considered but they are not persuasive.

a) Applicant's arguments in pages 9-10 and page 11, first paragraph, on claims 135-136 and 142, are moot in view of the new ground of rejection.

b) In response to applicant's argument in page 11, last paragraph, through page 12, lines 1-13, on claim 147, Miller discloses receiving a first type of action (user selects a set of lotto numbers) (lines 1-2 of paragraph 0083), and a second type of action (user selects a category banner icon (example: LEXUS) in lines 2-3 of paragraph 0083) and presenting an advertisement in response to the second type of selection (presenting data for the various models "LEXUS" produced by the company in the last three lines of paragraph 0083). Further, in col. 9, lines 12-28, Leason also discloses the first type of action (user selects icons) and in col. 13, lines 8-12, Leason discloses presenting advertisement to the user in response to the second type of action (user selects an internet site). Further, claim 147 fails to highlight the difference between the actions performed previously by the user with the actions performed by the user disclosed by Miller or Leason.

c) Applicant's argument in page 12, first paragraph, on claim 155, is moot in view of the new ground of rejection.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The central official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

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Date: August 23, 2005

Kim Nguyen
Primary Examiner
Art Unit 3713